

FILED

JUL 21 2005

RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

1 KEVIN V. RYAN (CSBN 118321)
United States Attorney

2 EUMI L. CHOI (WVBN 0722)
3 Chief, Criminal Division

4 MARK L. KROTOSKI (CSBN 138549)
Assistant United States Attorney

5 150 Almaden Boulevard, Suite 900
6 San Jose, California 95113
7 Telephone: (408) 535-5035
Facsimile: (408) 535-5066

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

13 UNITED STATES OF AMERICA,)

14 Plaintiff,)

15 v.)

16 DAVID M. FISH,)

17 aka x000x,)

18 CHIRAYU PATEL,)

aka nebula, aka nebwrk, aka aluben,)

aka notneb, aka aluben,)

19 WILLIAM VEYNA,)

aka guyzzz, aka - - -, aka 1010101,)

20 aka 5555, aka i love dact, aka 8675309,)

21 NATHANIEL E. LOVELL,)

aka Nate Lovell, aka pestilenc, aka pest,)

22 Defendants.)
23

No. CR 05-00445-RMW

STIPULATION REGARDING
EXCLUDABLE TIME AND [PROPOSED]
ORDER

24 It is hereby stipulated and agreed between defendant David M. Fish, and his counsel Paul
25 B. Meltzer, and the United States as follows:

26 On July 21, 2005, defendant Fish was arraigned on a nine-count indictment, charging as
27 follows: Count One: Conspiracy to Commit Criminal Copyright Infringement, Infringement By
28 Electronic Means, Infringement By Distributing A Commercial Distribution Work, Traffic in

STIPULATION REGARDING EXCLUDABLE TIME AND [PROPOSED] ORDER
CR 05-00445-RMW

1 Devices to Circumvent a Technological Measure that Protects a Copyright Work, Circumvent a
2 Technological Measure that Protects a Copyright Work, and Use Audiovisual Recording Devices
3 to Make Unauthorized Copies Of Audiovisual Works, in violation of 18 U.S.C. § 371; Count
4 Two: Circumventing a Technological Measure Protecting a Copyright Work and Aiding and
5 Abetting, in violation of 17 U.S.C. §§ 1201(a)(1)(A), 1204(a)(1), and 18 U.S.C. § 2; Counts
6 Three, Four and Five: Trafficking in Technology Primarily Designed to Circumvent
7 Technological Measures Protecting A Right of a Copyright Owner and Aiding and Abetting, in
8 violation of 17 U.S.C. §§ 1201(a)(2)(A), and 1204(a)(1) and 18 U.S.C. § 2; Counts Six, Seven,
9 Eight and Nine: Criminal Copyright Infringement By Electronic Means and Aiding and
10 Abetting, in violation of 17 U.S.C. § 506(a)(1)(B), 18 U.S.C. § 2319(c)(1) and 18 U.S.C. § 2;
11 and an allegation of Criminal Forfeiture and Destruction, in violation of 17 U.S.C. §§ 506(b) and
12 509(a). A status conference was set for September 26, 2005 at 9:00 a.m. before the Honorable
13 Ronald M. Whyte.

14 In this case, the government is providing initial discovery to the defense. A substantial
15 amount of discovery consists of digital evidence. The parties stipulate and move the Court to
16 exclude time under the Speedy Trial Act from the date of the arraignment, July 14, 2005, until
17 the next status conference on September 26, 2005, because the parties believe that the ends of
18 justice served by the granting of such a continuance outweigh the best interests of the public and
19 the defendant in a speedy trial, particularly since reasonable time is needed for the defense to
20 prepare for pretrial and trial matters, pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(ii).
21 The parties further stipulate that time may be excluded for reasonable time for defense

22 // // //

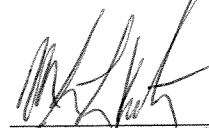
23 // // //

1 preparation, since the failure to exclude time would deny counsel for the defendant reasonable
2 time necessary for effective preparation, taking into account the exercise of due diligence,
3 pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(iv). There are also three co-defendants in
4 this case and time was previously excluded from July 14, 2005 to September 26, 2005, which
5 presents a separate basis for exclusion, pursuant to 18 U.S.C. §§ 3161(h)(7) (excluding time for
6 reasonable period of delay when the defendant is joined for trial with a codefendant as to whom
7 the time for trial has not run and no motion for severance has been granted).

8 So stipulated.

9 Dated: July 21, 2005

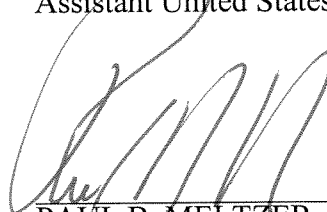
KEVIN V. RYAN
United States Attorney



MARK L. KROTOSKI
Assistant United States Attorney

13 So stipulated.

14 Dated: July 21, 2005




PAUL B. MELTZER
Attorney for Defendant Fish

ORDER

Based upon the foregoing Stipulation and good cause appearing therefor,

IT IS HEREBY ORDERED that the time between July 21, 2005 and September 26, 2005 shall be excluded from the computation period within which the trial must commence, for the reasons and based upon the statutory provisions set forth by the parties in this Stipulation, including that time is needed for effective defense preparation.. The Court finds that the ends of justice outweigh the interests of the public and the parties in a speedier trial based upon the grounds set forth above.

DATED: July 21, 2005


PATRICIA V. TRUMBULL
United States Magistrate Judge